IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 19867 of 2004

Between:

The Management of L.V.Prasad Eye Institute Road No.2, Banjara Hills, Hyderabad rep.by its Dy.Director (Admn)
smt.Vijaya L.Ramam.

..... PETITIONER

AND

1 Presiding officer, Labour Court-I, Andhra Pradesh, Hyderabad.
2 Mr.Ch.Mallesh, S/o.Durgaiah, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of certiorari calling for the records relating to IA No.202 of 2004 dated 4/8/2004 in ID.No.175 of 2002 passed by the first respondent and quash the same.

Counsel for the Petitioner: MS.G.SUDHA

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: Mr. K.Balagopal

The Court, at the stage of admission, made the following :

ORAL ORDER:

The petitioner has filed this writ petition challenging the order, dated 4.8.2004 in I.A.No.202 of 2004 in I.D.No.175 of 2002 passed by the Presiding Officer, Labour Court-I, Hyderabad.

The allegations in the writ petition are that the 100% object of the petitioner-institute is to conduct research in its various forms including fundamental and clinical research, genetic research, etc. The Government of A.P. issued G.O.Ms.No.64, dated 17.11.2003 recognizing the petitioner-institute as a premier institute and exempting it from Industrial Disputes Act, 1947 (for brevity "The Act"), Contract Labour (Regulation and Abolition) Act and Andhra Pradesh Shops and Establishment Act for a period of three years. Thereafter, the petitioner filed an I.A.No.202 of 2004 in I.D.No.175 of 2002 dated 4.8.2004 and it was dismissed. Challenging the same, this writ petition is filed.

Ms. G.Sudha, learned counsel for the petitioner has vehemently contended that the Government issued G.O.Ms.No.64, dated

17.11.2003 whereunder, the petitioner-institute was recognized as a research institute and the provisions of the Act will not be applicable and it is not an industry within the meaning defined under the Act, and therefore, the writ petition may be tagged on to one writ petition challenging the order in I.D.No.3 of 1997.

Mr.K.Bala Gopal, learned counsel appearing for the 2nd respondent has contended that the Industrial disputes were raised in the year 2002 and this Government Order has no application and the earlier dispute is also with regard to the award passed by the Industrial Tribunal for which, no stay is granted and there is no error apparent on the face of the record so as to call for interference by this Court. Hence, he prays to dismiss the writ petition.

There cannot be any dispute that Certiorari jurisdiction of this Court can be exercised when there is an apparent error on the face of the record or mis-interpretation of provision of law has been taken note of or the evidence has not been considered properly. It is well settled that while exercising the power of judicial review, this Court is more concerned with the decision making process than the merits of the decision itself. This Court can interfere with the orders of the Subordinate Courts and the Tribunal where:

i. *there is an error manifest and apparent on the face of the proceedings such as when it is based on clear misreading or utter disregard to the provisions of law and;*

ii. *a grave injustice or gross failure of justice has occasioned thereby;*

The main basis of the arguments of the learned counsel for the petitioner is issuance of G.O.Ms.No.64, dated 17.11.2003 exempting the petitioner-institute from the Industrial Dispute Act as it is a research institute. The said Government Order was issued on 17.11.2003. Therefore, this Government Order has no retrospective effect. Whatever the rights accrued to the employees prior to the issuance of the Government Order as on the date of raising the

Industrial Dispute would be governed. Whether the stay is granted or not, whether G.O.Ms.No.64, dated 17.11.2003 is the subject matter in the writ petition, in my considered opinion, will not have any impact or bearing in the industrial dispute that was raised by the 2nd respondent herein in the Labour Court.

The other contention is with regard to the adjudication of the dispute in I.D.No.3 of 1997, which is the subject matter of the adjudication before this Court in a writ petition. Even that case also appears to have been challenged basing on the evidence on record, but not on any Government Order issued by the Government of A.P. recognizing the petitioner-institute as a research institute. Therefore, in the order passed by the Presiding Officer, Labour Court-I, it is observed that a petition was filed at the stage of cross-examination of WW1. The learned Presiding Officer also observed that the Government Order was suspended in W.P.M.P.No.10103 of 2004, dated 6.4.2004 and therefore, there was an impediment to proceed further in the matter.

Having regard to the facts and circumstances of the case, I am of the considered opinion that the order, dated 4.8.2004 passed by the Presiding Officer, Labour Court-I, Hyderabad in I.A.No.202of 2004 in I.D.No.175 of 2002 does not suffer from any incurable legal infirmities and there is no error apparent on the face of the record so as to call for interference by this Court. Hence, the writ petition is devoid of any merit.

The Writ Petition is accordingly dismissed. There shall be no order as to costs.

(K.C. BHANU, J.)

23rd November, 2004.

Bcj

To

1 The Presiding officer, Labour Court-I, Andhra Pradesh, Hyderabad.
2 Two CC to G.P for Labour, High Court Buildings, Hyderabd(OUT).

3. Two CD copies